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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER MELLON, DAVID C				
ART UNIT		PAPER NUMBER		
1797				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/581,357

Applicant(s)

CAMPAGNOLO ET AL.

Examiner

DAVID C. MELLON

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37, 39-44, 48, 50, 51 and 53 is/are pending in the application.
- 4a) Of the above claim(s) 48 and 50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37, 39-44, 51 and 53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claim 37 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. **Claims 37, 39-44, 51, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al. (US 2006/0024732) and in view of Colin et al. (USP 5,925,573).**

Regarding claims 37 and 51, Huang et al. discloses in figure 7 a microchannel array for use with a magnetic microdevice (Abstract) and method of operation comprising:

Disposing a solution including analyte fixed to magnetic particles in a first receptacle ([0139], [0108], [0082], [0083], [0148], and [0144])

Attracting with a first magnetic mechanism, the magnetic particles fixed to the analyte to a bottom of the first receptacle and forming an initial residue at the bottom of the first receptacle ([0139] and [0144])

After forming the initial residue at the bottom of the first receptacle, dividing the initial residue into a plurality of residues by transporting the initial residue through channels connecting the first receptacle to a second receptacle ([0139-0140], and [0144], see also channels shown in figure 7).

Huang et al. does not explicitly disclose more than one second receptacle.

Colin et al. discloses a method for dividing an analyte present in solution in a first receptacle (8) into plural second receptacles (17), the analyte fixed on magnetic particles (C4/L1-55 - see discussion of particles with cores), the method (abstract) and in figures 2 and 3 comprising:

- Sedimentation of magnetic particles by a first magnetic mechanism (3, see also C2/L60-65, C8/L20-30, C10/L25-35)
- Formation of a plurality of residues in the second receptacles (C10/L15-30)
- The sedimentation first occurring in the first receptacle (C10/L15-30, see also figures, and also C8/L20-30)
- The first residue is transported by relative displacement of a magnetic field created by a second magnetic means (3 which is a long bar) which is coincident/the same with the first means (C8/L50-65, C2/L60-65)
- The fluid channels area parallel (see figure 3)
- The first residue is single and linear shaped (using magnet 3 it is inherently linear due to the linear magnet shape and would divide the receptacle into two parts)
- The fluid channels are all on the same side of the first residue (see figure 3)
- The magnet provides orthogonality of projection onto the plane of the displacement as required by claim 45
- The at least first residue is moved to the second receptacles (See figure 3, also see C10/L15-35)

- The channels are capillaries (C10/L45-65)
- The analyte is previously fixed and added to solution in the first receptacle (C4/L1-55).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the process of Huang such that the microdevices/analyte are received in different individual containers as taught by Colin for the purpose of providing multiple sample outlets such that the organized microdevices of Huang need not be remixed or re-separated after processing.

Regarding claims 39-41, Huang utilizes magnetic force to move the microdevices and that force is using the same magnet for two operations and further as shown in figure 7 all the channels are parallel ([0144]).

Regarding claim 42, the residue would either be in a linear shape or it would have been obvious to have formed a linear shape residue in view of using a bar shaped magnet ([0144] of Huang).

Regarding claim 43, each channel is located on the same side of the initial residue in a direction of displacement by the magnetic mechanism ([0144]).

Regarding claim 44, the magnetic mechanism includes a linear magnet that moves relative to the channels ([0144]).

Regarding claim 53, the residues are all divided into equal quantities which feed into each receptacle (Huang [0144], [0165]).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DAVID C. MELLON** whose telephone number is (571)270-7074. The examiner can normally be reached on Monday through Thursday 9:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on (571) 272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tony G Soohoo/
Primary Examiner, Art Unit 1797

/D. C. M./
Examiner, Art Unit 1797